

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

COLORQUICK, L.L.C.,	§	
	§	
<i>Plaintiff,</i>	§	
	§	No. 6:09-CV-323-LED
v.	§	
	§	JURY DEMANDED
VISTAPRINT LIMITED, and	§	
OFFICEMAX INCORPORATED,	§	
	§	
<i>Defendants.</i>	§	

**JOINT STIPULATION OF DISMISSAL OF DEFENDANT OFFICEMAX
INCORPORATED AND CERTAIN OTHER CLAIMS AND DEFENSES**

Plaintiff ColorQuick, L.L.C. (“ColorQuick”) and Defendants Vistaprint Limited (“Vistaprint”) and OfficeMax Incorporated (“OfficeMax”) (collectively, “the parties”) hereby stipulate and agree to the dismissal with prejudice of all of ColorQuick’s claims against OfficeMax and certain claims, counterclaims, and defenses as between ColorQuick and Vistaprint under Federal Rules of Civil Procedure 41(a)(1)(A)(ii) and 41(c)(2), as specified below (together, the “Stipulation”).

WHEREAS, ColorQuick filed Plaintiff’s First Amended Complaint for Patent Infringement and Jury Demand on October 27, 2010 (Dkt. 111), alleging that Vistaprint and OfficeMax directly and indirectly infringe U.S. Patent No. 6,839,149 (“the ‘149 patent”);

WHEREAS, ColorQuick served Plaintiff’s First Amended Disclosures Under P.R. 3-1 on September 29, 2010, asserting 20 claims of the ‘149 patent against Vistaprint and OfficeMax;

WHEREAS, Vistaprint filed Defendant Vistaprint Limited’s Answer and Counterclaims to Plaintiff ColorQuick L.L.C.’s First Amended Complaint for Patent Infringement on November

15, 2010 (Dkt. 112), asserting eight affirmative defenses and declaratory judgment counterclaims of noninfringement, invalidity, and unenforceability;

WHEREAS, OfficeMax filed Defendant OfficeMax Incorporated's Answer to Plaintiff ColorQuick, L.L.C.'s First Amended Complaint for Patent Infringement on November 15, 2010 (Dkt. 113), asserting seven affirmative defenses; and

WHEREAS, the parties desire to narrow issues in the case for trial.

THEREFORE, the parties hereby STIPULATE and AGREE to the following concerning the claims and defenses currently at issue:

1. ColorQuick hereby dismisses with prejudice all of ColorQuick's claims against OfficeMax. With respect to the dismissal of all claims, each of the two parties agree to be responsible for its own costs, attorney's fees, and expenses.
2. ColorQuick hereby dismisses with prejudice all of its indirect patent infringement claims against Vistaprint (Dkt. 111, paragraphs 12 and 13).
3. ColorQuick will reduce the number of asserted claims of the '149 patent against Vistaprint to eight representative claims and provide notice to Vistaprint and the Court of the eight representative claims by April 14, 2011.
4. Vistaprint hereby dismisses with prejudice the following affirmative defenses: (1) First Affirmative Defense of Failure to State a Claim; (2) Fourth Affirmative Defense of Failure to Provide Notice; (3) Fifth Affirmative Defense of Laches, Waiver, Acquiescence and/or Estoppel; (4) Seventh Affirmative Defense of Improper Venue; and (5) Eighth Affirmative Defense of Unenforceability (Dkt. 112).
5. Vistaprint hereby dismisses with prejudice its counterclaim of Declaratory Judgment of Unenforceability of the '149 Patent (Dkt. 112, Count III).

6. The parties further agree that the existence of the Stipulation and the substance thereof cannot be used before a jury at trial or otherwise in these proceedings except to enter or enforce this Stipulation. The parties agree that the Stipulation is not an admission or concession about the merits of any of ColorQuick's claims against OfficeMax or Vistaprint or of the merits of Vistaprint's counterclaim or defenses.

Dated: March 14, 2011

Respectfully submitted,

/s/ Justin B. Kimble

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ATTORNEYS FOR DEFENDANTS
VISTAPRINT LIMITED and OFFICEMAX
INCORPORATED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-f(a)(3) on March 14, 2011.

/s/ Justin B. Kimble